

16-6a-823. Limitation of liability of directors.

(1) (a) Except as provided in Subsection (1)(b), a nonprofit corporation may eliminate or limit the liability of a director to the nonprofit corporation or to its members for monetary damages for any action taken or any failure to take any action as a director, if:

(i) so provided in:

(A) the articles of incorporation;

(B) the bylaws; or

(C) a resolution; and

(ii) to the extent permitted in Subsection (3).

(b) Subsection (1)(a) does not permit a nonprofit corporation from eliminating or limiting the liability of a director for:

(i) the amount of a financial benefit received by a director to which the director is not entitled;

(ii) an intentional infliction of harm on:

(A) the nonprofit corporation; or

(B) the members of a nonprofit corporation;

(iii) an intentional violation of criminal law; or

(iv) a violation of Section 16-6a-824.

(2) A provision authorized under this section may not eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision becomes effective.

(3) Any provision authorized under this section to be included in the articles of incorporation may be adopted in the bylaws or by resolution, but only if the provision is approved by the same percentage of members of each voting group as would be required to approve an amendment to the articles of incorporation including the provision.

(4) Any foreign nonprofit corporation authorized to transact business in this state, except as otherwise provided by law, may adopt any provision authorized under this section.

Amended by Chapter 386, 2009 General Session